



# Long Term Services and Supports (LTSS)

Home and Community Based Options and Person Centered Excellence  
(HOPE) Waiver Renewal

# What is the HOPE Waiver?

- Program that allows South Dakota to provide services in consumer's home/community using Medicaid dollars
- Granted by the Centers for Medicare and Medicaid Services (CMS)
- Due for renewal every five years

# Benefits of the HOPE Waiver

- Consumers stay in their homes and communities longer by accessing home and community-based services
- Consumers eligible for Waiver are also Medicaid eligible
- Cost effective for the State

# Who is eligible?

- Individuals 65 and older, and individuals 18 and older with a qualifying disability who meet:
  - Nursing Facility Level of Care
  - Financial and other eligibility

# Current HOPE Waiver Services

- Adult Day Services
- In-Home Respite Care
- Residential Respite Care
- Homemaker Services
- In-Home Nursing Services
- Personal Cares
- Specialized Medical Equipment
- Specialized Medical Supplies
- Adult Companion Services
- Assisted Living
- Chore Services
- Community Living Home
- Community Transition Coordination
- Community Transition Supports
- Emergency Response System (ERS)
- Environmental Accessibility Adaptations
- Meals
- Nutritional Supplements
- Structured Family Caregiving



Current  
Population  
Served

There were 2,120 HOPE Waiver consumers in FY2020

# Waiver Renewal

- LTSS Waiver is due for renewal July 1, 2021
- Anticipated effective date October 1, 2021

# Summary of Changes

- The Administrative Authority performance measures have been updated.
- The language has been updated to ensure that Money Follows the Person providers are able to be reimbursed for transition services up to and including the transition date regardless of HOPE Waiver eligibility; given a preliminary Nursing Facility Level of Care for HOPE Waiver has been determined.
- Residential Respite has been added as a separate service.
- The fitness criteria list of automatic preclusions for caregivers and provider staff entering the homes of consumers has been updated.
- For consumers pursuing Structured Family Caregiving services, the fingerprint background check requirement has been removed for household members over the age of 18 who are not the primary caregiver.
- The Adult Protective Services and Critical Incidents sections of the Waiver have been updated to reflect the specialization of APS and enhance the Critical Incident protocol related to deaths.
- The protocol related to complaints received for HOPE Waiver participants residing in a provider owned and operated setting have been updated to align with complaints received against providers of HOPE Waiver participants residing in the home.
- The rate methodology for Structured Family Caregiving has been updated from a 1:2 caregiver to consumer ratio to a 1:1.5 caregiver to consumer ratio.



# Administrative Authority

## Current Practice

- Performance was measured by the number and percent of times the designated agency (DHS) maintained program expenditures and participants within approved waiver limits.

## Proposed Change:

- Performance will be measured by the number and percent of provider agreements received and approved by Medicaid prior to approval for HOPE Waiver service provision.
- Performance will be measured by the number and percent of Internal Waiver Review Committee (IWRC) meetings that were represented by The HOPE Waiver team.

# Why is this changing?

- CMS requested that the performance measures for Administrative Authority be updated.

# Money Follows the Person

## Current Practice:

- Potential Money Follows the Person (MFP) participants will receive a preliminary Level of Care determination before transitioning to the community. Once transitioned, another Level of Care determination will be completed in order to determine ongoing eligibility

## Proposed Change:

- The current practice for that is in place for MFP providers is unchanged. Language in the Waiver Renewal will now reflect LTSS's current practice.

# Why is this changing?

- Previously, Money Follows the Person (MFP) providers were not able to be reimbursed for transition services rendered up to and including the day a consumer transitioned to the community if the consumer did not meet the Nursing Facility Level of Care (and therefore was not eligible for the HOPE Waiver following his/her transition)
- The MFP process was updated to include a Preliminary Level of Care, so that MFP funds could be utilized if consumer was transitioned in “good faith”
- The language has been updated in the waiver to reflect this process, as it was not previously included.

# Residential respite

## **Current Practice:**

- In-Home Respite services were used for all in-home and Residential Respite services.

## **Proposed change:**

- Respite services will be separated into two separate services; In-Home Respite and Residential Respite.

# Why is this changing?

- Residential Respite is being separated from In-Home Respite to ensure that the rate for Residential Respite care will align with the average cost of nursing facility care in South Dakota. The change will also simplify the authorization process for Residential Respite.

# Fitness criteria for background checks

## Current Practice:

- Per the Provider Provisions for services requiring a fingerprint background check, the following is a list of fitness criteria that would automatically preclude an individual from being hired/contracted previously:
  - A crime of violence as defined by SDCL 22-1-2 or a similar statute from another state;
  - A sex crime pursuant to SDCL chapters 22-22 or 22-24A or SDCL 22-22A-3 or similar statutes from another state;
- Within the preceding five years, a conviction for any other felony;
- Misdemeanor convictions related to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct;
- Any convictions, including any form of suspended sentence, which are determined to be detrimental to the best interests of SD Medicaid. This includes convictions related to a person's character such as perjury and fraud related charges as individuals determined to be dishonest with any party should not be assumed to be honest with SD Medicaid;
- Conviction related to obstruction of a criminal investigation.

## Proposed change:

- The Provider Provisions for services requiring a fingerprint background check, the following are a list of fitness criteria that would automatically preclude an individual from being hired/contracted:
  - A crime of violence as defined by SDCL 22-1-2 or a similar statute from another state;
  - A sex crime pursuant to SDCL chapters 22-22 or 22-24A or SDCL 22-22A-3 or similar statutes from another state;
  - Class A and/or B felony convictions within the last five years.
- The following are a list of fitness criteria that may preclude an individual from being hired/contracted at the discretion of the provider:
  - Other felonies not described in 3.a.iii.
  - Misdemeanor convictions related to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct;
  - Any convictions, including any form of suspended sentence, which are determined to be detrimental to the best interests of SD Medicaid. This includes convictions related to a person's character such as perjury and fraud related charges as individuals determined to be dishonest with any party should not be assumed to be honest with SD Medicaid;
- Conviction related to obstruction of a criminal investigation

# Why is this changing?

- Fitness criteria has been updated to ensure that providers are able to make hiring decisions on a case-by-case basis while keeping the health and safety of consumers the top priority.



# Structured Family Caregiving

## Current Practice:

- Currently, all household members 18 years of age and older living in the home of a consumer pursuing Structured Family Caregiving services are required to pass a State fingerprint (or State approved) background check prior to the initiation of services.

## Proposed change:

- Household members 18 years of age and older living in the home of a consumer pursuing Structured Family Caregiving services will not be required to complete a State fingerprint (or State approved) background check prior to the initiation of services SFC.
- The Structured Family Caregiving provider will be encouraged to complete background screening on all household members 18 years of age and older living in the home of a consumer pursuing SFC services.

# Why is this changing?

- Though it is still encouraged, the requirement that all household members 18 years of age and older pass a State fingerprint background check has been removed to ensure the timely initiation of Structured Family Caregiving services.

# Critical Incidents

## Current Practice:

- Death certificates are not obtained and/or reviewed upon notification of a HOPE Waiver participants death.

## Proposed change:

- Death certificates will be requested for all deaths. The Critical Incident Review Team will monitor all deaths for trends. Deaths resulting from other than natural causes will be reviewed for history of APS cases, history of Provider complaints, and history of Critical Incidents to determine if further investigation is necessary.

# Why is this changing?

- Requesting all death certificates for HOPE Waiver consumers will assist the Critical Incident Review Team in detecting trends.

# Complaints

## Current Practice:

- When a Long Term Services and Supports Specialist receives a complaint from a consumer residing in an Assisted Living, the Specialist follows up on the complaint by making a referral to the Ombudsman program for complaint resolution. The LTSS Specialist does not complete additional follow up.

## Proposed change:

- When a Specialist receives a complaint from a consumer residing in an Assisted Living, the Specialist follows the policies and procedures for investigating provider complaints and documents all pertinent information in Therap. After resolution of the complaint is completed, the Specialist confirms with the consumer that the complaint has been resolved. If the consumer is not satisfied with the outcome, the Specialist will offer to make a referral to the Ombudsman Program made on the consumer's behalf.
- The Critical Incident Review Team will monitor all complaints of consumers residing in Medicaid enrolled Assisted Living settings to monitor for compliance with the HCBS Settings Rule.

# Why is this changing?

- This policy change will alleviate the need to receive information from the Ombudsman Program, which may be a conflict of interest in some cases.
- This policy change will also allow the Critical Incident Review Team to monitor complaints for trends and compliance with the HCBS Settings Rule.

# SFC Rate Methodology

## Current Practice:

- The Structured Family Caregiving rate methodology is based on a 1:2 caregiver to consumer ratio.

## Proposed change:

- The Structured Family Caregiving rate methodology will be based on a 1:1.5 caregiver to consumer ratio.

# Why is this changing?

- The update in rate methodology will provide an enhanced rate for SFC providers and daily stipend to primary caregivers.



# Hope waiver renewal next steps

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Public comment period starts May 17<sup>th</sup>, 2021 and ends June 16<sup>th</sup>, 2021.

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The HOPE Waiver renewal and summary of proposed changes document are available at <https://dss.sd.gov/keyresources/hearings> and <http://dhs.sd.gov/ltss/titlexix.aspx>.

LTSS welcomes and encourages comments.

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The HOPE Waiver Renewal will be submitted to the Centers for Medicare and Medicaid Services (CMS) by July 1<sup>st</sup>, 2021.



# Comments

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**TOWN HALL CONFERENCE CALL:**

June 2<sup>nd</sup>, 2021, 2:00-3:00

Dial In: 1-866-410-8397

Conference Code: 5969258425